

MINUTES OF THE LAND RECLAMATION COMMISSION MEETING

May 25, 2006
10:00 a.m.

Chairman, Jim DiPardo called the meeting to order at 10:00 a.m., at the Missouri Department of Natural Resources, 1738 East Elm Street, Jefferson City, Missouri.

Commissioners Present: Jim DiPardo; Nick Matherly; Mimi Garstang and Kevin Mohammadi (alternate for Ed Galbraith), Bob Ziehmer, Dr. Gregory Haddock.

Staff Present: Larry Coen; Tom Cabanas; Bill Zeaman; Steve Femmer; Andy Reed; Clint Bishop; Mike Mueller; Mike Larsen, Guy Frazier, Sara Hayes, Larry Teson, Larry Hopkins, Teri Bibbs and Becky Myers.

Others Present: Harry Bozoian, Attorney General's Office; Stephen Preston, OSM; Rodyer Bayer, Vibra-Tech Engineers; Steve Aitken, Brookhill Subdivision; Mike Kennison, Brookhill Subdivision; Steve Rudloff, MLPA; Steve Krause, Tri-County Quarry- Crown and Jack Hoelscher, Tri-County Quarry-Crown.

MINUTES OF THE MARCH 23, 2006 LAND RECLAMATION COMMISSION MEETING

Dr. Haddock made a motion to approve the March 23, 2006 Commission meeting minutes. Ms. Garstang seconded the motion; motion carried unanimously.

PERMITS, CONTRACTS AND DESIGN-CLINT BISHOP

AML Reclamation Projects

Mr. Bishop of the Land Reclamation Program, noted that the Abandoned Mined Land staff is completing the preliminary site investigation activities on the Rocky Fork AML Reclamation project located in northern Boone County. Four (4) extremely dangerous lead/zinc mineshafts located in Jasper and Newton Counties are under preliminary design. Another extremely dangerous lead/zinc mineshaft was recently brought to our attention by the National Forest Service (NFS). The shaft is located in the Mark Twain National Forest in southeastern Christian County. The NFS has generously offered to provide their own federal funding to close the shaft.

AML Emergency Program

Two potential AML emergency complaints have been received and investigated by the LRP staff since the last Commission meeting. Both complaints involved relatively minor foundation movement and wall cracking at single-family residences located in the south St. Louis area. There are no available records of past underground mining at 6432 Wade

Avenue, the location of one of the residences, and no evidence was observed during the on-site investigation that would indicate active mine subsidence. An abandoned underground clay mine is located in the immediate vicinity of the other residence, 5569 Mardell Avenue. However, no evidence of active mine subsidence was observed during the on-site investigation and there is no evidence that coal was mined at this location. Both of these complaints were determined to be non-emergencies.

COAL PERMITTING ACTIVITIES UPDATE- CLINT BISHOP

Mr. Bishop reported coal permitting activities between March 14, 2006 and May 4, 2006.

During this reporting period, LRP received seven (7) new coal permit actions. Two (2) of these actions were finalized during this same period. Five (5) actions were still under review as the reporting period ended. These five (5) actions were not received until April and the LRP staff reviews are proceeding on schedule.

All coal permit actions received prior to March 14, 2006, were also finalized as of that date.

Continental Coal, Inc. (CCI) has notified LRP of their plans to submit a new coal permit application in June 2006 for a proposed expansion of the Cottonwood Creek Mine (Permit No. 2003-01). A pre-application on-site meeting with CCI has been scheduled for May 18, 2006, so that LRP staff members who will be conducting the permit reviews can get an overview of the proposed expansion area.

INDUSTRIAL MINERALS

Hearing Request for Crown Quarry, LLC

Mr. Tom Cabanas, LRP staff reported on the background of the hearing request concerning the application for renewal of the permit sought after by Crown Quarry, LLC in Lincoln county.

BACKGROUND:

On November 21, 2005, the Missouri Department of Natural Resources Land Reclamation Program received a permit renewal application from Crown Quarry, LLC proposing to mine limestone on a total 72-acres in Lincoln County. After the application was deemed complete, the company published a public notice once a week, beginning on February 8, 2006, for four consecutive weeks in the *Troy Free Press* a newspaper that is qualified to publish Public Notices pursuant to Section 493.050 RSMo., in Lincoln County. The company also sent by certified mail a notice of intent to operate a surface mine to the appropriate government officials and adjacent landowners. This proposed permit renewal application of a 72-acre limestone mining operation is located in Sections 24, Township 48 North, Range 1 West in Lincoln County. The proposed mine operation timeframe is to the year 2040. The original public notice had expired on December 31, 2005, which meant the public notice had to be run again.

The Staff Director received one (1) letter requesting a hearing, supported by eighteen (18) signatures concerning the proposed permit expansion application. Therefore, we present a request for a hearing before the Commission.

The Land Reclamation Act addresses the issues of a request for a hearing and issues of past non-compliance. The Missouri Department of Natural Resources does not provide protection concerning requests for permit denial and other adverse impacts outside the jurisdiction of the department.

On March 27, 2006, the Staff Director did inform the person requesting a hearing of the time, location of and how to prepare for the May 25, 2006 Commission meeting.

Mr. Cabanas next presented the Director's Recommendation for Crown Quarry, LLC, permit renewal application, 72-acres total in Lincoln County. The Director's Recommendation was based on a review of the comments received and the required components of the recommendation.

The Land Reclamation Act at Section 444.773.3, RSMo, requires that the Staff Director make a formal recommendation regarding the issuance or denial of an applicant's permit. In addition, the "Act" at 444.773.1, RSMo, requires the Director to consider any written comments when making the notice of recommendation. After consideration of issues provided in the letter, it is the Staff Director's recommendation to issue the permit renewal involving 72-acres in Lincoln County sought after by Crown Quarry, LLC. The Staff Director's recommendation for approving this application is based on the fact that the company has satisfied the requirements for application completeness.

In summary, Mr. Cabanas presented Attachment I which was the response to public comments regarding the proposed permit renewal application of Crown Quarry, LLC in Lincoln County. He also submitted to the Commission a copy of the application for permit renewal and documents received both from landowners and company owners.

After Mr. Cabanas' presentation, landowners asked to address the Commission. Landowners Steve Aitken and Mike Kennison, of the Brookhill subdivision addressed the Commission with questions and concerns they have regarding the quarry's blasting procedures.

Mr. Aitken's inquired about the permits, paperwork the company kept on the inventory of the blasting material and who is blasting and are they qualified /experts in the field of blasting. Mr. Kennison's main concerns were the amounts and frequency of the blasting.

Steve Krause, CFO of Crown Quarry, LLC, as well as Jack Ptoelscher and Rodyer Bayer introduced themselves to the Commission. Mr. Ptoelscher and Mr. Bayer are the "vibrators" from Austin Powder the company that conducts the blasting at the quarry. It was explained that the blasters have extensive training beginning with in-house training followed by an apprenticeship and required yearly retraining.

Next, Mr. John Holliday, a technical representative from Austin Powder addressed the Commission. Vibra-Tech is the company used to monitor heavy vibrations from blasting and the effects of those vibrations. This company has been in operation since 1976.

There was much discussion regarding the blasting with the experts answering both homeowners and Commissioners questions. It was agreed that the company would place monitors around the area to keep check on the intensity of the blasts and continue with positive dialogue regarding the concerns of the blasting.

At this time, Dr. Haddock made a motion to deny the hearing request and renew the permit for Crown Quarry, LLC. Bob Ziehmer seconded the motion; motion carried unanimously.

Mr. Tom Cabanas, LRP staff next made a presentation on Brown Sand and Gravel noting that the company and the landowners were continuing to negotiate and the landowner no longer wishes to pursue a hearing at this time.

Dr. Haddock made a motion to take the hearing request for Brown Sand and Gravel off of the table. Bob Ziehmer seconded the motion; motion carried unanimously.

COAL BOND FORFEITURE STATUS REPORT – MIKE LARSEN

Since the last update provided to the commission on March 23, 2006, the bond forfeiture staff has continued to conduct on the ground inspections and evaluations of bond forfeiture sites. In addition, the staff has been working with contractors in order to complete needed repairs and maintenance at various forfeiture sites around the state.

The following is a brief summary for the commission's information as to the work progressing and/or completed since the March 2006 meeting:

Riedel Energy, Inc. – Monroe and Ralls counties:

On the ground assessments are continuing at this former mine site located in northeast Missouri near Mark Twain lake. On site contacts have been made with various landowners to explain work that will be done for their properties in the future. In addition, groundwater monitoring well locations have been identified for the purpose of properly closing these structures.

Permit #1989-03 located in the southeastern portion of this former mine site and consisting of 89 acres was addressed last summer and fall. The work completed at that time involved the upgrading of two ponds and the stabilization of several erosional gullies on this permit area. The ponds have since filled with water owing to spring rains and are now stable and functioning to the satisfaction of the program and property owner. This permit was presented to the Commission for liability release in a separate agenda item.

Universal Coal and Energy Co., Inc. – Mine #4 (Multiple permits) – Howard county

Work with the landowners of the remaining areas of this mine is continuing. Contracts for erosion repair and rock placement will be awarded soon for repairs at this minesite in order to

prepare the remainder of the mine for release presentations to the Commission. It is expected that by the end of calendar year 2006 the work on all areas of this mine site will be finished and release presentation will have been made.

Universal Coal and Energy Co., Inc. – Renick Mine – Randolph county

As explained in earlier memos, this mine site is very close to being recommended for liability release before the commission. The remaining work involves the reconstruction and upgrading of a spillway for the main impoundment at this former coal mine site. The staff has been working closely with the consultant for Lincoln General Insurance Company, the bond provider for this former mine, to complete the work. We came close to completing this work during the month of April and early May however, due to wet ground conditions during this time the work has been delayed. It is expected to perform this work during the month of June when drier conditions should prevail. The staff now expects to present this mine site to the commission for a liability release at the July 2006 meeting.

Bill's Coal Company – Fort Scott Mine (Multiple Permits) – Vernon county

An on-site field inspection of this mine site was conducted on April 20, 2006 with the Office of Surface Mining in attendance. The purpose of this field inspection was to determine the overall status of the mine site for a presentation of liability release to the commission at the May, 2006 meeting. The mine site consists of multiple permits spanning multiple coal surface mining laws for a total of 785 acres.

The inspection determined that most of the mine site is eligible for release with the exception of two properties consisting of 165 acres. These two properties will be omitted from a release presentation later today until additional repair work consisting of erosion repair, filling of holes and minor grading/revegetation work can be completed. It is expected this work will be finished in the near future so that the remainder of the minesite may be presented to the commission during the July, 2006 meeting.

**COAL BOND FORFEITURE LIABILITY RELEASE REQUESTS –
MIKE LARSEN**

The Land Reclamation Program's bond forfeiture staff have evaluated and completed work on the following former coal mine sites during the past two months and are presenting them to the commission for their liability release consideration. These are companies who have undergone permit revocation and bond forfeiture by the commission in the past. The work of final reclamation now rests with the program to complete.

All sites have been inspected jointly with the Office of Surface Mining and, in addition, all current landowners of record have been notified that these sites are to be recommended for complete and final liability release at this meeting of the Land Reclamation Commission. As of the date of this memo, no comments or objections have been received.

| <u>Company Name</u> <u>(Forfeiture site)</u> | <u>Mine</u> | <u>Permit #</u> | <u>Release Acres</u> |
|---|--------------------|------------------------|-----------------------------|
| Bill's Coal Co. | Fort Scott Mine | 1981-04 1982-18 | 620.0 acres (all permits) |

78-27, 80-27 (interim law)
77-27, 77-27-A2, 76-27, 76-27-A1 (old state law)

Riedel Energy, Inc.

Perry Mine

1989-03

89 acres

STAFF RECOMMENDATION:

It is the recommendation of the program's bond forfeiture staff that, as all necessary reclamation has been accomplished, the Missouri Land Reclamation Commission release the state from all further liability for the former coal mine sites listed above.

Dr. Haddock made a motion to follow staff recommendations to release all liability from the state for permits 1981-04, 1982-18 and 1989-03 and all other permits listed above. Bob Ziehmer seconded the motion; motion carried unanimously.

FINAL UPDATE ON COAL BONDING RULEMAKING

Next on the agenda, Mr. Mike Larsen presented the final update on coal bonding rulemaking to the Commission:

As the commission will recall, the staff has been working since last August to emplace regulations that will change the type of bonding accepted when surface coal mining permits are issued. The new regulations will require what is termed "Full Cost Bonding" and will replace the prior regulations that required a flat dollar amount per acre permitted.

The commission currently has in place a set of emergency regulations that require full cost bonding. These emergency regulations will expire on June 30, 2006 therefore it was necessary for the staff to develop and emplace permanent regulations that will take the place of the emergency regulations. Permanent regulations require a lengthy and multiphase process that is nearing completion.

During the February 27, 2006 special meeting of the Land Reclamation Commission an "Order of Rulemaking" was formally adopted. The staff was instructed to move forward with the filing of the "Order" which is the final step the commission must take in a permanent rulemaking process. The "Order" was filed with the Joint Committee on Administrative Rules on March 22, 2006. A mandatory thirty day waiting period then took place before the "Order" was filed with the Secretary of State's Administrative Rules Division.

On April 24, 2006 the commission's "Order" was filed with the Secretary of State. It is now a matter of time prescribed by law for the permanent regulations to become effective. The staff anticipates that this will finally take place on August 1, 2006.

Although this is one month after the expiration of the emergency rulemaking, all parties involved have been aware of this hiatus since the rulemaking process began. No problems

are expected because of this one month break in the bonding regulations for surface coal mines.

This presentation was for the commission's information only. No action was requested at that time.

COMMENTS FROM THE PUBLIC

Mr. DiPardo asked for other business or comments from the public.

At that time, the discussion turned to the vacancy of the vice-chairman seat on the Commission due to the replacement of Mr. Hugh Jenkins, who was voted in as the vice-chairman at the March 2006 meeting.

Ms. Garstang nominated Dr. Gregory Haddock as vice-chairman to the Land Reclamation Commission. Mr. Matherly made a motion to cease nominations and vote on Dr. Haddock. The motion carried by unanimous vote to cease nominations and elect Dr. Haddock as the vice-chairman of the Commission.

There was no other business or comments from the public.

CLOSED SESSION

Mr. Ziehmer made a motion for the Land Reclamation Commission to meet in closed session at 8:30 a.m. on July 27, 2006, to discuss personnel actions, legal actions, causes of actions or litigation as provided for in Section 610.021 RSMo. Dr. Haddock seconded the motion; motion carried unanimously.

ADJOURNMENT

Dr. Haddock made a motion to adjourn; Ms. Garstang seconded the motion. Motion carried unanimously.

The meeting adjourned at 12:15 p.m.

Respectfully submitted,

Chairman

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